

PROPOSED REGULATIONS – PERIODIC REVIEW

Title of Regulation: 18 VAC 85-20-10 et seq. Regulations Governing the Practice of Medicine, Osteopathy Osteopathic Medicine, Podiatry, and Chiropractic.

Statutory Authority: § 54.1-2400 and Chapter 29, (§ 54.1-2900 et. seq.) of Title 54.1 of the Code of Virginia

Effective Date:

Summary: These regulations protect the health, safety and welfare of the citizens of the Commonwealth by establishing requirements and fees for initial license, license renewal, reinstatement of a lapsed license and approval of foreign medical schools that teach the healing arts.

**PART I
GENERAL PROVISIONS**

18 VAC 85-20-10. Definitions.

- A. The following words and terms, when used in these regulations, shall have the meaning ascribed to them in § 54.1-2900 of the Code of Virginia:

Acupuncturist
Board
Healing arts
Practice of chiropractic
Practice of medicine or ~~osteopathy~~ osteopathic medicine
Practice of podiatry

- B. The following words and terms, when used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

"Approved institution" means any accredited school or college of medicine, ~~osteopathy~~ osteopathic medicine, podiatry, or chiropractic located in the United States, its territories, or Canada.

"Principal site" means the location in a foreign country where teaching and clinical facilities are located.

18 VAC 85-20-22. Required fees.

- A. Unless otherwise provided, fees established by the board shall not be refundable.
- B. All examination fees shall be determined by and made payable as designated by the board.
- C. The application fee for licensure in medicine, ~~osteopathy~~ osteopathic medicine, and podiatry shall be \$225, and the fee for licensure in chiropractic shall be \$200. The fee for board approval to sit for ~~Part Step~~ 3 of the United States Medical Licensing Examination without subsequent licensure in Virginia shall be \$85.
- D. The fee for a temporary ~~permit~~ authorization to practice medicine pursuant to § 54.1-2927 B (i) and (ii) of the Code of Virginia shall be ~~\$30~~ 25.
- E. The application fee for a limited professorial or fellow license issued pursuant to 18 VAC 85-20-210 shall be \$55. The annual renewal fee shall be \$35. An additional fee for late renewal of licensure shall be \$15.

- F. The application fee for a limited license to interns and residents pursuant to 18 VAC 85-20-220 shall be \$55. The annual renewal fee shall be \$35 ~~a year~~. An additional fee for late renewal of licensure shall be \$15.
- G. The fee for a duplicate wall certificate shall be \$15; the fee for a duplicate license shall be \$5.
- H. The fee for biennial renewal shall be \$260 for licensure in medicine, ~~osteopathy~~ osteopathic medicine and podiatry and \$235 for licensure in chiropractic, due in the licensee's birth month. An additional fee for processing a late renewal application within one renewal cycle shall be \$90 for licensure in medicine, ~~osteopathy~~ osteopathic medicine and podiatry and \$80 for licensure in chiropractic.
- I. The fee for requesting reinstatement of licensure pursuant to § 54.1-2921 of the Code of Virginia shall be \$2,000.
- J. The fee for reinstatement of a license issued by the Board of Medicine pursuant to § 54.1-2904 of the Code of Virginia, which has expired for a period of two years or more, shall be \$305 for licensure in medicine, ~~osteopathy~~ osteopathic medicine and podiatry and \$290 for licensure in chiropractic ~~and in addition to the late fee for each year in which the license has been lapsed, not to exceed a total of four years.~~ The fee shall be submitted with an application for licensure reinstatement.
- K. The fee for a letter of ~~good standing/verification of licensure~~ to another jurisdiction for a license shall be \$10, ~~and the fee for certification of grades to another jurisdiction by the board shall be \$25.~~ Fees shall be due and payable upon submitting a request for verification or certification to the board.
- ~~L. The fee for certification of grades to another jurisdiction by the board shall be \$25. The fee shall be due and payable upon submitting the form to the board.~~
- ~~M.~~ L. The fee for biennial renewal of an inactive license shall be \$130, due in the licensee's birth month. An additional fee for late renewal of licensure shall be \$45 for each renewal cycle.
- ~~N.~~ M. The fee for a returned check shall be \$25.

PART II. STANDARDS OF PROFESSIONAL CONDUCT.

18 VAC 85-20-30. Advertising ethics.

- A. Any statement specifying a fee, whether standard, discounted or free, for professional services which does not include the cost of all related procedures, services and products which, to a substantial likelihood, will be necessary for the completion of the advertised service as it would be understood by an ordinarily prudent person shall be deemed to be

deceptive or misleading, or both. Where reasonable disclosure of all relevant variables and considerations is made, a statement of a range of prices for specifically described services shall not be deemed to be deceptive or misleading.

- B. Advertising a discounted or free service, examination, or treatment and charging for any additional service, examination, or treatment which is performed as a result of and within 72 hours of the initial office visit in response to such advertisement is unprofessional conduct unless such professional services rendered are as a result of a bonafide emergency. This provision may not be waived by agreement of the patient and the practitioner.
- C. Advertisements of discounts shall disclose the full fee that has been discounted. ~~and~~ The practitioner shall maintain documented evidence to substantiate the discounted fees and shall make such information available to a consumer upon request.
- D. A licensee or certificate holder's authorization of or use in any advertising for his practice of the term "board certified" or any similar words or phrase calculated to convey the same meaning shall constitute misleading or deceptive advertising under § 54.1-2914 of the Code of Virginia, unless the licensee or certificate holder discloses the complete name of the specialty board which conferred the aforementioned certification.
- E. It shall be considered unprofessional conduct for a licensee of the board to publish an advertisement which is false, misleading, or deceptive.

PART III.
LICENSURE: GENERAL AND EDUCATIONAL REQUIREMENTS.

18 VAC 85-20-120. Prerequisites to licensure.

A. Every applicant for licensure shall:

1. Meet the educational requirements specified in 18 VAC 85-20-121 or 18 VAC 85-20-122 and the examination requirements as specified for each profession in 18 VAC 85-20-140;
2. File the complete application and appropriate fee as specified in 18 VAC 85-20-22 with the executive director of the board; and
3. File the required credentials with the executive director by a date established by the board and as specified below:
 - a. Graduates of an approved institution shall file:
 - (1) Documentary evidence that he received a degree from the institution; and
 - (2) A complete chronological record of all professional activities since graduation,

giving location, dates, and types of services performed.

b. Graduates of an institution not approved by an accrediting agency recognized by the board shall file:

- (1) Documentary evidence of education as required by 18 VAC 85-20-122;
- (2) A translation made and endorsed by a consul or by a professional translating service of all such documents not in the English language; and
- (3) A complete chronological record of all professional activities since graduation, giving location, dates, and types of services performed.

B. Every applicant discharged from the United States military service within the last ~~10~~ five years shall in addition file with his application a notarized copy of his discharge papers.

18 VAC 85-20-121. Educational requirements: Graduates of approved institutions.

A. Such an applicant shall be a graduate of an institution that meets the criteria appropriate to the profession in which he seeks to be licensed, which are as follows:

1. For licensure in medicine. The institution shall be approved or accredited by the Liaison Committee on Medical Education or other official accrediting body recognized by the American Medical Association, or by the Committee for the Accreditation of Canadian Medical Schools or its appropriate subsidiary agencies or any other organization approved by the board.
2. For licensure in ~~osteopathy~~ osteopathic medicine. The institution shall be approved or accredited by the Bureau of Professional Education of the American Osteopathic Association or any other organization approved by the board.
3. For licensure in podiatry. The institution shall be approved and recommended by the Council on Podiatry Education of the American Podiatry Medical Association or any other organization approved by the board.

B. Such an applicant for licensure in medicine, ~~osteopathy~~ osteopathic medicine, or podiatry shall provide evidence of having completed one year of satisfactory postgraduate training as an intern or resident in a hospital or health care facility offering approved internship and residency training programs when such a program is approved by an accrediting agency recognized by the board for internship and residency training.

C. For licensure in chiropractic.

1. If the applicant matriculated in a chiropractic college on or after July 1, 1975, he shall be a graduate of a chiropractic college accredited by the Commission on Accreditation of the Council of Chiropractic Education or any other organization approved by the board.

2. If the applicant matriculated in a chiropractic college prior to July 1, 1975, he shall be a graduate of a chiropractic college accredited by the American Chiropractic Association or the International Chiropractic Association or any other organization approved by the board.

18 VAC 85-20-131. Requirements to practice acupuncture.

Such practice shall be subject to the following conditions:

1. To be qualified to practice acupuncture, licensed doctors of medicine, ~~osteopathy~~ osteopathic medicine, podiatry, and chiropractic shall first have obtained at least 200 hours of instruction in general and basic aspects of the practice of acupuncture, specific uses and techniques of acupuncture, and indications and contraindications for acupuncture administration. After December 5, 2001, at least 50 hours of the 200 hours of instruction shall be clinical experience supervised by a person legally authorized to practice acupuncture in any jurisdiction of the United States. Persons who held a license as a physician acupuncturist prior to July 1, 2000, shall not be required to obtain the 50 hours of clinical experience.
2. ~~A podiatrist may use acupuncture only for treatment of pain syndromes originating in the human foot. The use of acupuncture as a treatment modality shall be appropriate to the doctor's scope of practice as defined in § 54.1-2900 of the Code of Virginia.~~

**PART IV.
LICENSURE: EXAMINATION REQUIREMENTS.**

18 VAC 85-20-140. Examinations, general.

- A. The Executive Director of the Board of Medicine or his designee shall review each application for licensure and in no case shall an applicant be licensed unless there is evidence that the applicant has passed an examination equivalent to the Virginia Board of Medicine examination required at the time he was examined and meets all requirements of Part III (18 VAC 85-20-120 et seq.) of this chapter. If the executive director or his designee is not fully satisfied that the applicant meets all applicable requirements of Part III of this chapter and this part, he shall refer the application to the Credentials Committee for a determination on licensure.
- B. A Doctor of Medicine or ~~Osteopathy~~ Osteopathic Medicine who has passed the examination of the National Board of Medical Examiners or of the National Board of Osteopathic Medical Examiners, FLEX, or United States Medical Licensing Examination, or the examination of the Licensing Medical Council of Canada or other such examinations as prescribed in § 54.1-2913.1 of the Code of Virginia may be accepted for licensure.
- C. A Doctor of Podiatry who has passed the National Board of ~~Podiatry~~ Podiatric Medical

Examiners examination and has passed a clinical competence examination equivalent to the Virginia Board of Medicine examination may be accepted for licensure.

- D. A Doctor of Chiropractic who has met the requirements of one of the following may be accepted for licensure.
1. An applicant who graduated after January 31, 1996 shall document successful completion of Parts I, II, III, and IV of the National Board of Chiropractic Examiners examination (NBCE).
 2. An applicant who graduated from January 31, 1991 to January 31, 1996 shall document successful completion of Parts I, II, and III of the National Board of Chiropractic Examiners examination (NBCE).
 3. An applicant who graduated from July 1, 1965 to January 31, 1991, shall document successful completion of Parts I, II, and III of the NBCE, or Parts I and II of the NBCE and the Special Purpose Examination for Chiropractic (SPEC), and document evidence of licensure in another state for at least two years immediately preceding his application.
 4. An applicant who graduated prior to July 1, 1965 shall document successful completion of the SPEC, and document evidence of licensure in another state for at least two years immediately preceding his application.
- E. The following provisions shall apply for applicants taking Step 3 of the United States Medical Licensing Examination or the Podiatric Medical Licensing Examination :
1. Applicants for licensure in medicine and ~~osteopathy~~ osteopathic medicine may be eligible to sit for Step 3 of the United States Medical Licensing Examination (USMLE) upon evidence of having passed Steps 1 and 2 of the United States Medical Licensing Examination (USMLE).
 2. Applicants who sat for the United States Medical Licensing Examination (USMLE) shall provide evidence of passing Steps 1, 2, and 3 within a seven-year period except for good cause shown.
 3. Applicants shall have completed the required training or be engaged in their final year of required postgraduate training.
 4. Applicants for licensure in podiatry shall provide evidence of having passed the National Board of Podiatric Medical Examiners Examination to be eligible to sit for the Podiatric Medical Licensing Examination (PMLEXIS) in Virginia.

18 VAC 85-20-150. ~~Reexamination Repealed.~~

~~An applicant for licensure in medicine, osteopathy, or podiatry who fails three or more attempts to pass the applicable examination(s) shall be eligible to sit for another series of three attempts~~

~~upon presenting proof to the Credentials Committee of the board that he has fulfilled the requirements of subdivision 1 or 2 of this section, whichever is appropriate.~~

- ~~1. An applicant for licensure in medicine or osteopathy who fails three or more attempts to pass Component I and Component II, or Parts I, II, and III of the FLEX examination or the United States Medical Licensing Examination in Virginia or any other state or territory of the United States, the District of Columbia, or province of Canada, or a combination of either of these examinations, shall engage in one year of additional post-graduate training to be obtained in a hospital in the United States or Canada approved by the American Medical Association or the American Osteopathic Association.~~
- ~~2. An applicant for licensure in podiatry who fails three or more attempts to pass the PMLEXIS shall appear before the Credentials Committee of the board and shall engage in such additional postgraduate training as may be deemed appropriate by the Credentials Committee.~~

**PART V.
LIMITED OR TEMPORARY LICENSES.**

18 VAC 85-20-210. Limited licenses to foreign medical graduates.

- A. A physician who graduated from an institution not approved by an accrediting agency recognized by the board applying for a limited professorial license or a limited fellow license to practice medicine in an approved medical school or college in Virginia shall:
 1. Submit evidence of authorization to practice medicine in a foreign country.
 2. Submit evidence of a standard Educational Commission for Foreign Medical Graduates (ECFMG) certificate or its equivalent. Such required evidence may be waived by the Credentials Committee or its designee based on other evidence of medical competency and English proficiency.
 3. Submit a recommendation from the dean of an accredited medical school in Virginia that the applicant is a person of professorial or of fellow rank whose knowledge and special training will benefit the medical school.
- B. The limited professorial license or limited fellow license applies only to the practice of medicine in hospitals and outpatient clinics where medical students, interns or residents rotate and patient care is provided by the medical school or college recommending the applicant.
 1. The limited professorial license shall be valid for one year and may be renewed annually upon recommendation of the dean of the medical school and upon continued full time employment as a faculty member.
 2. The limited fellow license shall be valid for one year and may be renewed not more than

twice upon the recommendation of the dean of the medical school and upon continued full time employment as a fellow.

- C. An individual who has practiced with a limited professorial license for five continuous years may have a waiver when applying for a full license to practice medicine in the Commonwealth of Virginia. The limited professorial licensee applying for a full license shall meet the requirements of 18 VAC 85-20-120 and 18 VAC 85-20-122.

PART VI.

RENEWAL OF LICENSE; REINSTATEMENT.

18 VAC 85-20-230. Renewal of an active license.

- A. Every licensee who intends to ~~continue his practice~~ maintain an active license shall renew his license biennially during his birth month, meet the continued competency requirements prescribed in 18 VAC 85-20-235, and pay to the board the renewal fee prescribed in 18 VAC 85-20-22.
- B. An additional fee to cover administrative costs for processing a late application shall be imposed by the board as prescribed in subsection H of 18 VAC 85-20-22.

18 VAC 85-20-235. Continued competency requirements for renewal of an active license.

- A. In order to renew an active license biennially on or after January 1, 2002, a practitioner shall complete the Continued Competency Activity and Assessment Form (“Form”) which is provided by the board and which shall indicate completion of at least 60 hours of continuing learning activities within the two years immediately preceding renewal as follows:
 - 1. A minimum of 30 of the 60 hours shall be in Type 1 activities or courses offered by an accredited sponsor or organization sanctioned by the profession. At least 15 of the Type 1 hours shall be earned in face-to-face group activities or other interactive courses.
 - a. Type 1 hours in chiropractic shall be accredited by the Council on Chiropractic Education or any other organization approved by the board.
 - b. Type 1 hours in podiatry shall be accredited by the American Podiatric Medical Association, the American Council of Certified Podiatric Physicians and Surgeons or any other organization approved by the board.
 - 2. No more than 30 of the 60 hours may be Type 2 activities or courses, which may or may not be approved by an accredited sponsor or organization but which shall be chosen by the licensee to address such areas as ethics, standards of care, patient safety,

new medical technology, and patient communication.

- B. A practitioner shall be exempt from the continuing competency requirements for the first biennial renewal following the date of initial licensure in Virginia.
- C. The practitioner shall retain in his records the completed ~~form~~ **Form** with all supporting documentation for a period of six years following the renewal of an active license.
- D. The board shall periodically conduct a random audit of at least one to two percent of its active licensees to determine compliance. The practitioners selected for the audit shall provide the completed ~~Continued Competency Activity and Assessment~~ **Form** and all supporting documentation within 30 days of receiving notification of the audit.
- E. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.
- F. The board may grant an extension of the deadline for continuing competency requirements, for up to one year, for good cause shown upon a written request from the licensee prior to the renewal date.
- G. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.
- H. The board may grant an exemption for all or part of the requirements for a licensee who is practicing solely in an uncompensated position, provided his practice is under the direction of a physician fully licensed by the board.

18 VAC 85-20-236. Inactive license.

A doctor of medicine, ~~osteopathy~~ osteopathic medicine, podiatry or chiropractic who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be required to maintain continuing competency requirements and shall not be entitled to perform any act requiring a license to practice medicine, ~~osteopathy~~ osteopathic medicine, podiatry or chiropractic in Virginia.

18 VAC 85-20-240. Reinstatement of an inactive or lapsed license.

- A. A practitioner whose license has been lapsed for two successive years or more and who requests reinstatement of licensure shall:
 - 1. File a completed application for reinstatement;
 - 2. Pay the reinstatement fee prescribed in 18 VAC 85-20-22; and

3. Provide documentation of having completed continued competency hours equal to the requirement for the number of years, not to exceed four years, in which the license has been lapsed.
- B. An inactive licensee may reactivate his license upon submission of the required application, payment of the difference between the current renewal fee for inactive licensure and the current renewal fee for active licensure, and documentation of having completed continued competency hours equal to the requirement for the number of years, not to exceed four years, in which the license has been inactive.
- C. If a practitioner has not engaged in active practice in his profession for more than four years and wishes to reinstate or reactivate his license, ~~he shall take and pass one of the following as applicable to his practice; the board may require the practitioner to pass one of the following examinations.~~ For the purpose of determining active practice, the practitioner shall provide evidence of at least 640 hours of clinical practice within the four years immediately preceding his application for reinstatement or reactivation.
1. The Special Purpose Examination (SPEX) given by the Federation of State Medical Boards.
 2. The Comprehensive Osteopathic Medical Variable Purpose Examination - USA (COMVEX -USA) given by the National Board of Osteopathic Examiners.
 3. The Special Purposes Examination for Chiropractic (SPEC) given by the National Board of Chiropractic Examiners.
 4. A special purpose examination or other evidence of continuing competency to practice podiatric medicine as acceptable to the board.
- D. The board reserves the right to deny a request for reinstatement or reactivation to any licensee who has been determined to have committed an act in violation of § 54.1-2915 of the Code of Virginia or any provisions of this chapter.